

Panaji, 6th September, 1984 (Bhadra 15, 1906)

SERIES II No. 23

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Local Administration and Welfare Department

Notification

No. LSG-Mun-3182-68-C

In exercise of the powers conferred by Sub-Section (1) of Section 71 of the Goa, Daman and Diu Municipalities Act,

Revenue Department

Notification

No. 22/163/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition of 38,200 sq. mts. at Sanguem for Sports Complex.

Therefore the Government is pleased to notify under Sub-Section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of

1968 (7 of 1969), the Administrator of Goa, Daman and Diu is pleased to appoint Shri Bansi Dhar, Finance Secretary, as Director of Municipal Administration during the leave period of Shri R. K. Bhatia, Secretary (Urban Development and Tourism).

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (LAWD).

Panaji, 28th August, 1984.

the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Dy. Collector (3-South) to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under Sub-Section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector (3-South).
3. The Director of Sports and Cultural Affairs, Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector (3-South) for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

| Sr. No. | Taluka | Village/Ward | Survey No. P. T. Sheet No. | Sub-Div. No. Chalta No. | Names of the persons believed to be interested | Approximate area in sq. mts. |
|--|---------|-----------------|----------------------------------|----------------------------|--|---------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Sanguem | Sanguem Town | 111 | 1(part) | 1. Ivo Agnelo Santimano Fernandes. 2. Ida Santimano Fernandes. | 13000.00 |
| | | | 111 | 2(part) | 1. Ida Santimano Fernandes. 2. Ivon Nazareth Fernandes. 3. Nancy Fernandes Vira Menezes. | 25200.00 |
| Boundaries: | | | | | | |
| North: S. No. 110/2 112/1 & Road S. No. 111/1. | | | | | | |
| South: S. No. 111/1 111/2. | | | | | | |
| East: Road, 112/1, 111/2. | | | | | | |
| West: S. No. 111/1, 118/1. | | | | | | |
| Total | | | | | | 38200.00 |

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 24th August, 1984.

Notification

No. 22/105/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for road from Rathapain to Parampoi at Marcaim in V. P. Marcaim.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under

Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Dy. Collector, Goa North Division, Panaji to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

- 1. The Collector of Goa, Panaji.
- 2. The Additional Dy. Collector, Goa North Division, Panaji.
- 3. The Executive Engineer, Works Div. XVIII P.W.D. Ponda Goa.
- 4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector, Goa North Division, Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

| Sr. No. | Taluka | Village/Ward | Survey No. | Sub. Div. No. | Names of the persons believed to be interested | Approximate area in sq. mts. |
|--|--------|--------------|------------|---------------|---|------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Ponda | Marcaim | 14 | 2 part | H: 1. Shripad Rama Kamat. 2. Shantabai Vallab Kamat. 3. Narhari Rama Kamat. 4. Narayan Rama Kamat. 5. Vinayak Rama Kamat. | 325.00 |
| | | | 519 part | | H: 1. Kashinath Bhicu Kamat. 2. Vallab Kashinath Kamat. 3. Sushilabai Anant Kamat. | 420.00 |
| | | | 518 part | | H: — do — | 170.00 |
| | | | 15 | 2 part | H: 1. Shripad Rama Kamat. 2. Shantabai Vallab Kamat. 3. Narayan Rama Kamat. 4. Vinayak Rama Kamat. | 550.00 |
| | | | 15 | 1 part | H: Chandrakant Anant Kamat. | 160.00 |
| | | | 16 part | | H: 1. Satu Shrinivas Pai Raikar. 2. Venkatesh Shrinivas Pai Raikar. 3. Vaikunth Shrinivas Pai Raikar. 4. Guiri Shrinivas Pai Raikar. 5. Ganasham Shrinivas Pai Raikar. 6. Govind Narayan Lotlikar. | 140.00 |
| | | | 517 | 3 part | H: 1. Shripad Rama Kamat. 2. Shantabai Vallab Kamat. 3. Narahari Rama Kamat. 4. Narayan Rama Kamat. 5. Vinayak Rama Kamat. | 260.00 |
| | | | 517 | 2 part | H: Chandrakant Anant Kamat. | 170.00 |
| | | | 517 | 1 part | H: Shantabai Vallab Kamat. | 140.00 |
| | | | 515 part | | H: Comunidade. | 185.00 |
| | | | 25 part | | H: — do — | 235.00 |
| | | | 506 part | | H: Francisco Samiro Alkantra de Piedade Vaz. | 1400.00 |
| North: Road and S. No. 520/6. South: S. No. 506. East: S. No. 519, 518, 517/3, 2, 1, S. No. 515 and road. West: Road, S. No. 14/2, 15/2, 1, S. No. 16/-, 25/- and S. No. 506. | | | | | | |
| Total | | | | | | 4155.00 |

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 17th August, 1984.

Notification

No. 22/141/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for alignment of rising main from Sewage pumping station No. 4 at Mangor to Sewage pumping station No. 6 at Baina under Vasco Sewerage Scheme.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Addl. Deputy Collector (2-South) Margao to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

- 1. The Collector of Goa, Panaji.
- 2. The Additional Dy. Collector (2-South), Margao.
- 3. The Executive Engineer, Works Division IX (PHD) P.W.D. Fatorda.
- 4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector (2-South) Margao for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

| Sr. No. | Taluka | Village/Ward | Survey No. P. T. Sheet No. | Chalta No. Sub-Div. No. | Names of the persons believed to be interested | Approximate area in sq. mts |
|---------|----------|--------------|----------------------------|-------------------------------------|---|-----------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Mormugao | Mormugao | 101 | Chalta No. 56 Sub Div. 2 (part) | O: Comunidade. T: Manu Borker. | 310.00 |
| | | | 101 | Chalta No. 56 Sub Div. 3 (part) | O: Comunidade. T: Tukaram Korgaunker. | 210.00 |
| | | | 101 | Chalta No. 56 Sub Div. 4 (part) | O: Comunidade. T: Yamuna Morajkar. | 210.00 |
| | | | 101 | Chalta No. 56 Sub Div. No. 5 (part) | O: Comunidade. T: Parish. | 220.00 |
| | | | 101 | Chalta No. 56 Sub Div. 6 (part) | O: Comunidade. | 40.00 |
| | | | 101 | Chalta No. 57 Sub Div. 11 (part) | O: Comunidade. T: Babu R. Kurtarkar. | 260.00 |
| | | | 101 | Chalta No. 57 Sub Div. 10 (part) | O: Comunidade. T: Albertino Furtado. | 125.00 |
| | | | 101 | Chalta No. 57 Sub Div. 9 (part) | O: Comunidade. T: Augstinho Godinho. | 70.00 |
| | | | | | North: Sheet No. 101 Chalta No. 56/2, 4, 3 and 5 Chalta No. 61/100. Road. Sheet No. 101 Chalta No. 57/11 to 1. South: Sheet No. 101 Chalta No. 56/2, 3, 4 and 5 Chalta No. 61/100. Road. Sheet No. 101 chalta No. 57/11 to 1. East: Road. West: Nala & Chalta No. 1/119: | 135.00 |
| | | | 101 | Chalta No. 57 Sub Div. 8 (part) | O: Comunidade. T: Devki Borkar. | |
| | | | 101 | Chalta No. 57 Sub Div. 7 (part) | Comunidade. T: Agustinho Godinho. | 155.00 |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-------------|----------|-----|--|--|---|---------|
| Mormugao | Mormugao | 101 | Chalta No. 57 Sub Div. 6 (part) | O: Comunidade. T: Alberto Furtado. | | 60.00 |
| | | 101 | Chalta No. 57 Sub Div. 5 (part) | O: Comunidade. T: Damaciano Dourado. | | 55.00 |
| | | 101 | Chalta No. 57 Sub Div. 4 (part) | O: Comunidade. T: Govind Borker. | | 60.00 |
| | | 101 | Chalta No. 57 Sub Div. No. 3 (part) | O: Comunidade. T: Babu R. Kurtarkar. | | 120.00 |
| | | 101 | Chalta No. 57 Sub Div. 2 (part) | O: Comunidade. T: Sushil Chodankar. | | 120.00 |
| | | 101 | Chalta No. 57 Sub Div. 1 (part) | O: Comunidade. T: Novso M. Arondekar. | | 30.00 |
| | | 101 | Chalta No. 15 | O: Olivera Heriques. Valentina Pereira. Marquino Missur. North: P. T. S. No. 100 Chalta No. 15. South: P. T. Sheet No. 100, Chalta No. 15. East: P. T. Sheet No. 100, Chalta No. 15. West: P. T. Sheet No. 100, Chalta No. 15. | | 310.00 |
| Total | | | | | | 2390.00 |

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 6th August, 1984.

Notification

No. 22/197/83-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of approach road to Ferry Ramp at Adpoi in V. P. Durbhat Taluka Ponda.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Dy. Collector, North Division, Panaji to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector Goa North Division, Panaji.
3. The Executive Engineer, Works Division XVIII (R&B) P. W. D. Ponda.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector, Goa North Division, Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

| Sr. No. | Taluka | Village/Ward | Survey No. | Sub. Div. No. | Names of the persons believed to be interested | Approximate area in sq. mts. |
|-------------|--------|--------------|------------|---------------|--|------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | Ponda | Durbhat | 11 | 2 part | O: 1. Dinanath Khemu Naik. 2. Tukaram Khemu Naik. 3. Namdev Ganesh Naik. 4. Savio Ganesh Naik. 5. Khemu Ganesh Naik. 6. Vishnu Vairo Naik. 7. Dhaktu Ponda Naik. 8. Ravji Arjun Naik. 9. Vithal Bhikari Naik. 10. Baban Puti Naik. 11. Anant Bhikari Naik. 12. Yesso Bhikari Naik. 13. Venkatesh Gopinath Naik. 14. Anant Govind Naik. 15. Gana Govind Naik. 16. Ramrai Babusso Naik. | 475.00 |
| | | | 12 | 1 part | O: 1. Krishnanath Narshinv Naik Sukerker. 2. Umesh Ramchandra Pai. 3. Tulsibai Nagnath Khate. 4. Vasant Anant Bhandari. 5. Manikbai Venkatesh Bhandari. 6. Prabhakar Venkatesh Bhandari. | 950.00 |
| | | | 12 | 2 part | O: — do — T: Omu Govind Gaude. Ragu Govind Gaude. Vaman Ragu Gaude. | 1550.00 |
| | | | 13 part | — | O: 1. Krishnanath Narshinv Naik Sukerker. 2. Umesh Ramchandra Pai. 3. Tulsibai Nagnath Khate. 4. Vasant Anant Bhandari. 5. Manikbai Venkatesh Bhandari. 6. Prabhakar Venkatesh Bhandari. <i>Boundaries:</i> North: Road, S. No. 12 & Nala. South: River. East: S. No. 11/3 & River. West: S. No. 11/2, S. No. 12/2 & Nala. | 425.00 |
| Total | | | | | | 3400.00 |

By order and in the name of the Lt. Governor of Goa, Daman and Diu.
P. S. Nadkarni, Under Secretary (Revenue).
Panaji, 24th August, 1984.

Notification

No. RD/TNC/BND/280/67(part file)

In pursuance of the proviso to sub-section (3) of Section 26 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government hereby specify the following bunds prescribed in the schedule appended hereto as protective bunds for the purpose of the said proviso:

SCHEDULE

| Sr. No. | Name of the bund | Village | Taluka | Approximate area protected (in Hectares) | Description of the bund |
|---------|------------------|----------------|--------|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Betul Kultem | Verem-Vagurnem | Ponda | 8.00 H. A. | The bund is starting from the paddy field Betul Kultem belonging to Shri Raikar of Verem-Vagurnem situated at Verem-Vagurnem and ending with the paddy field Pediache Bund belonging to Shri Narcinv Pai Raikar of Savoi Verem. The bund is running marginal to the creek of Mandovi river. |
| | Zuvem | Verem-Vagurnem | Ponda | 10.00 Ha. | The bund is starting from the paddy field "Zuvem" belonging to Shri Premanand K. Bhomkar of Verem and ending with the paddy field belonging to Shri Manguesh Singbal, situated at Verem Vagurnem of Ponda taluka. The bund is running marginal to the creek of Mandovi river. |

By order and in the name of the Lt. Governor of Goa, Daman and Diu.
P. S. Nadkarni, Under Secretary (Revenue).
Panaji, 27th August, 1984.

Industries and Labour Department

Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 17th August, 1984.

**IN THE LABOUR COURT GOA, DAMAN & DIU,
PANAJI-GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/38/80

1. Shri Shreekant D. Malkarnekar — Applicant
V/s.

1. Shri Modu Timblo — Opponents
2. M/s. Sociedade de Fomento Industrial Pvt. Ltd.

Applicant represented by Shri K. V. Nadkarni, Labour Consultant.

Opponent 1 and 2 represented by Shri Ramesh Desai, Labour Advisor.

Panaji. Dated: 18-7-1984

AWARD

This is an application under Section 33C(2) of the I.D.A., 1947, in short the Act, filed by the above applicant against the above opponent claiming from the latter ex-gratia payment at the rate of 11.66 p.c. in addition to bonus @ 8.33% paid by the Opponent to other employees of the Organisation in the year 1978, amounting to Rs. 2,809-20, medical benefits for the year 1979 amounting to Rs. 400-00 and 12.5 days leave wages amounting to Rs. 517-08, in all totalling Rs. 3,726-28.

2. It is applicant's case that he, in his capacity as an employee of the Opponents, is entitled to the amounts above mentioned. The Opponents have paid to the employees of the organisation, towards bonus for the financial year 1978-79, at the rate of 8.33 p.c., statutory bonus as per the payment of Bonus Act and an additional amount at 11.66 p.c. as ex-gratia payment. This amount has been paid to all the employees in the organisation, except to the staff working at the Head Office. Under the agreement signed by the employees' Union with the Opponents on 28-5-1979, the Management has agreed to consider and revise the facilities, mainly relating to gratuity, bonus and leave travel concession, if such demands are considered/sanctioned or revised to the employees of the establishment outside the H. O. to maintain the parity. Notice of demands was served on the Opponent but they have not accepted it. Similarly, the Opponents, as per clause 5 of the said agreement are bound to pay him medical benefits for the year 1979 at the rate of Rs. 400/-.

3. In their written statement, the Opponents raised the preliminary objection in respect of jurisdiction of this Court to entertain this application and, on the merits, they have stated as follows:

It is true that they have paid bonus to the employees of the organisation for the years 1978-79 at the rate of 8.33 p.c. but, regarding the additional amount of 11.66 p.c. as ex-gratia, they say that it has been paid to some establishments of the employer under settlement/agreement enforceable to such establishments only. The employees of the H. O. are having different set of conditions of service than the other employees of various establishments for the last many years, and these employees of different establishments are also covered under different labour laws, depending on the categories of the establishments and other circumstances.

Regarding the medical benefits, it is stated that they are admissible under the settlement referred to by the

applicant, but only on production of doctor's prescription and bills; since the applicant has not produced any medical bills to prove his sickness or of his family members, he cannot claim any amount on this count.

Regarding applicant's claim towards leave wages, it is stated that, at the time of final settlement of his leave dues, the applicant has been paid the sum of Rs. 3,955-96 towards 95 days wages in lieu of leave.

In short, the Opponents denied that the applicant is entitled to the amounts claimed.

4. Following issues were framed by the Court:

"1. Whether the applicant proves that he is a workman as per the definition given in section 2(s) of the Industrial Disputes Act, 1947, hereinafter called the Act, and, as such, entitled to the relief claimed?

2. Whether the Opponents prove that the applicant is not a workman within the meaning of Section 2(s) referred to above?

3. Whether the Opponent proves that part of the applicant's claim is a substantive industrial dispute and can be disposed off only by a reference under section 10 of the Act?

4. Whether the Opponent proves that the part of the applicant's claim relating to bonus has to be proceeded with under the Payment of Bonus Act, 1965 and this Tribunal has no jurisdiction to entertain it?"

5. On the above issues, evidence was led by the parties. The applicant led his evidence, of Shri Joseph Fernandes and Shri Pandurang Chodankar. The Opponent did not lead any evidence of his own but limited himself to cross examine the applicant and his witnesses. Both the parties' rep. advanced their oral arguments.

6. After giving due consideration to the arguments advanced before me, I shall take up first issue No. 1 on the preliminary point as to whether the applicant is a "workman" within the meaning of Section 2(s) of the Act.

This provision defines workman as follows:

"Workman means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute;"

But does not include:

- (i)
- ii)
- iii) who is employed mainly in a managerial or administrative capacity; or
- iv) who being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

7. In order to see whether the employee is doing Managerial, administrative or supervisory work it is well settled that the designation of the employee is not of great importance; what is important is the nature of his duties or, in other words, what is in substance the work he does or is employed to do. If he mainly does supervisory work but, incidentally, also does some other clerical work, his work would be of supervisory nature and would exclude him from the definition of 'Workman'. Conversely, if his main work is manual, clerical or of technical nature, the mere fact that some supervising or other work is also done by him will not take him out of the purview of the definition of a 'Workman'. The principle is that an employee must be held to be employed to do that work which is the main work he is required to do, even though he may be incidentally doing other type of work (Vide O.P. Malhotra "Law, of Industrial Dispute, III edition Vol. I page 498").

8. Commenting on "supervisory work" writes Malhotra at page 501 and 504: "Supervision contemplates direction and control. Ordinary supervision work is not of supervisory nature for the purpose of definition. An Officer is generally invested with the powers of supervision and control in counter distinction to the stereo type of work done by a clerk. He generally occupies the position of command or decision and he is authorised to act in certain matters within the limits of his authority with the sanction of his supervisors."

And later, on page 507: "The duties of a clerk are not inconsistent with the limited amount of supervision and control from other employees but in each case it will be essential to examine the facts and to determine what is the nature of the work."

9. Let us see now from the evidence on record what were the main duties performed by the workman, which could bring him or not within the definition of 'Workman' under Section 2(s) of the Act.

10. The workman, in his statement before the Court, has stated that he was working with the Opponent as departmental assistant with a monthly salary of Rs. 1,340/-; he was working in the export department under Mr. Chodankar, who was the Export Manager; he was also given work by Shri Modu Timblo, the Mg. Director and by Shri Kantak the Director of the Company.

In his cross, he has stated:

He was appointed in 1973 as Office Assistant with a salary of Rs. 475/- per month and was doing the same duties as were assigned to him in the export department of the opponent. He was promoted to the post of Jr. Executive in December 1974 and his pay was raised to Rs. 850/- per month; in spite of this promotion, his duties continued to be the same. In Exh E-1, which is an application for leave dated 18-6-1976, he has put his designation in his own handwriting as Jr. Executive. It is true that Executive means an Officer and Jr. Executive means a Jr. Officer; he was drafting letters on the subjects he was concerned with and, after the drafts was approved by Mr. Chodankar, they were typed and sent to the Director for signature. When Mr. Chodankar, who was his departmental head, was absent or on leave, important correspondence was kept pending or it was directly handled by the Director. He has denied that, in the absence of Chodankar, he used to prepare and finalize the draft and send it to the Directors for their signatures.

Regarding quality control, he used to maintain a work sheet for the everyday loading of the vessel. He used to take the average grade and ascertain whether the loading ore were as per specifications; then this daily work sheet was submitted to Mr. Chodankar, who used to issue instructions in regard to the load to be carried to the vessel from various stacks; on the basis of such instructions, he used to work further calculations for ascertaining the average grade; thereafter, Chodankar used to take decision whether to load or not the said stack. After such decision, instructions to loading jetty at Mormugao Harbour were issued either by Chodankar or by him. The strength of the export department in the year 1978-79 was of 8 employees, namely, the Manager, the witness, one Clerk, one typist-cum-clerk, one typist, one steno-typist, one peon and one messenger. Chodankar was the in-charge of the export department. He has denied that, next to Chodankar, he was the second person responsible in the export department; his salary was the highest in the department after Chodankar. It is true that only his signature appears at the margin on the 4 documents exh. E-7 colly, signed by the Director, Exh E-6, which is a similar document, is initialled at the margin by Chodankar and by him. He has denied the suggestion that, in his capacity as Jr. Executive, he was considered by the Management as an authorised representative in the matter of buying and selling of ore from outside parties and empowered to enter into correspondence with such parties.

Regarding medical bills and prescriptions, he has submitted them to Mr. Chodankar. He has denied the suggestion that he has never submitted any such bills.

11. Shri Joseph Fernandes is the other witness for the workman. He has stated that he is working in this company since March 1973 in the export department; he and the workman joined the Company almost at the same time; Mr. Chodankar was the Head of the department. At present the witness is Sr. Assistant in the export department. The workman used to get the work directly from Chodankar and do it partly himself and partly get it done from other employees. The workman was preparing various types of

statements, shipping bills etc. The witness used to assist him in this work. Both the witness and the workman used to send wireless messages on the instructions given by Mr. Chodankar. The work of quality control was looked after by Chodankar and the workman, and, on instructions of Chodankar, the workman used to handle the work of barge freight.

In his cross: In the absence of Chodankar, the workman was carrying out his functions. The barge freight was discussed and decided by mutual consultation between Chodankar and the workman; fixation of barge freight with outside party and powers were all vested principally in the hands of Mr. Chodankar and, in his absence, in the hands of the workman.

12. The last witness is Pandurang Chodankar.

He is working as Export Manager in the Company. When the workman joined the company, the witness was working as export Manager. The workman was Jr. Assistant to the witness. The workman was entirely responsible for the correctness of the shipping bills which were checked by him; he was also responsible for the calculations of the statements, not only mathematical calculations but also of the data. There was no change in his work from the time he joined till he left.

In his cross: The workman was not immediately entrusted with the work of preparation of time sheets, because it is a very important work in connection with negotiating Shipping documents and needs at least 6 months training. Under the Chairman's instructions the workman was kept under the charge and the witness was asked to gradually pass on the responsibility on him so that a second person could do his work in his absence. The responsibility of the witness went on increasing as the witness went on assigning certain work to be done independently by the workman, which work earlier was done by the witness.

13. From the applicant's evidence itself it is shown that the applicant workman was working in the export department as departmental assistant (a Jr. Executive post) with the pay of Rs. 1,340/- per month; he was working under the export Manager; Mr. Chodankar, who was the head of the department. In this department the applicant was next to Mr. Chodankar, considering his pay as well as his duties. He was also given work by the Mg. Director Shri Modu Timblo and by Mr. Kantak the Director of the Company.

Shri Joseph Fernandes is the witness of the applicant and has stated that, right from the time he joined the Company in the export department, the applicant used to give him orders and he used to comply with them and so he considered himself subordinate to the applicant. The applicant was in direct contact with Mr. Chodankar, from whom he used to get the work directly, part of which the applicant himself used to execute and part get it done through the other employees. In the absence of Mr. Chodankar, the applicant used to carry out his functions; barge freight was discussed and decided by mutual consultation between Chodankar and the applicant; regarding fixation of barge freight from outside party, powers were vested principally on Mr. Chodankar and, in his absence, with the applicant. The accounts of the trips of the outside barges were sent by the Vasco office to the export department. The applicant used to check the bills and, if they were found correct, payment was made.

Finally, Shri Pandurang Chodankar, who is the last witness of the applicant has stated that one Miss Amble used to prepare the shipping bills, which were checked by the applicant, who was entirely responsible for the calculations, not only mathematical but also of the data; hiring of barges was done by the witness and, in his absence, by the applicant; the applicant used to receive Company's guests on behalf of the company. The applicant, after he joined the Company, was not immediately entrusted with the work of preparation of time sheets, which is a very important work in connection with the negotiations of shipping documents and requires at least 6 months training. Similarly, to arrive at a desired grade of ore to be loaded on the ships from different stacks and of different grades, one needs administrative expertise. When the applicant joined the Company, he had some idea regarding the various aspects of the export work and was kept under the charge of the witness by the Chairman, who had instructed the witness to gradually pass on the responsibility on the applicant so as to enable him to do the job in his absence. Accordingly, the witness went on assigning certain work to the applicant to be done in-

dependently by him, which work was earlier done by the witness and, by this way, the responsibility of the applicant went on increasing.

14. From the above evidence it is clear that the applicant was holding a responsible position in the export department and even doing independently some administrative functions which were delegated to him by the export Manager, Shri Chodankar. His duties cannot be classified as clerical duties, but administrative and supervisory work. This, coupled with the fact that he was holding the post of a Jr. Executive, ranking second in the export department and drawing salary of more than Rs. 1000/- per month leads to the conclusion that he is not a "workman" within the meaning of Section 2(s) of the Act.

15. In view of this my finding that the applicant is not a workman within the meaning of the Act, I hold that this court has no jurisdiction to entertain this application under Section 33C(2) of the Act. Order accordingly.

In view of this finding, all other issues stand prejudiced. I leave each party to bear its own costs.

Dr. Renato de Noronha
Presiding Officer
Labour Court

Notification

No. 26/6/84-ILD

In exercise of the powers conferred by sub-section (1) of section 5 of the Indian Boilers Act, 1923 (Central Act 5 of 1923) the Lieutenant Governor of Goa, Daman and Diu hereby appoints Shri S. S. Prabhu Dessai, Group Instructor (Safety), Inspectorate of Factories and Boilers, Panaji-Goa, as an Inspector for the whole of the Union territory of Goa, Daman and Diu, for the purposes of the said Act.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 25th August, 1984.

Finance Department (Expenditure)

Order

No. 6-3-84-Fin(Exp)

The Administrator of Goa, Daman and Diu is pleased to order promotion of Smt. Sharmila S. Naik, Assistant Accounts Officer, Directorate of Accounts, to the post of Accounts Officer in the pay scale of Rs. 840-40-1000-EB-40-1200/- from the date of her taking charge and post her in the Directorate of Accounts in the vacancy caused by the deputation of Shri V. V. Naik, Dy. Director of Accounts to the Rural Development Agency.

2. On promotion, the pay of Smt. Sharmila S. Naik will be fixed in the time scale of Rs. 840-40-1000-EB-40-1200 under the normal rules.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. M. Nambiar, Under Secretary (Finance Exp).

Panaji, 27th August, 1984.

Order

No. 6-3-84-Fin(Exp)

The Administrator of Goa, Daman and Diu is pleased to order promotion of Shri Gokuldas Volvoikar, Accountant, Electricity Department, Panaji to the grade of Assistant Accounts Officer in the pay scale of Rs. 550-25-750-EB-30-900 from the date of taking charge and post him in the Directorate of Accounts, Panaji. He will be on probation for a period of two years in the first instance.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. M. Nambiar, Under Secretary (Finance Exp).

Panaji, 27th August, 1984.